

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

JASON PAUL SCHAEFER,

Plaintiff,

v.

TIM TRASK, et al.,

Defendants.

SIMON, District Judge.

Case No. 3:18-cv-01145-SI

ORDER DENYING APPOINTMENT
OF COUNSEL

Before this court is plaintiff's Motion for Appointment of Counsel (#56). For the reasons set forth below, Plaintiff's Motion is DENIED.

Generally, there is no constitutional right to counsel in a civil case. *United States v. 30.64 Acres of Land*, 795 F.2d 796, 801 (9th Cir. 1986). However, pursuant to 28 U.S.C. § 1915(e), this Court has discretion to request volunteer counsel for

indigent plaintiffs in exceptional circumstances. *Id.*; *Wood v. Housewright*, 900 F.2d 1332, 1335 (9th Cir. 1990); *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986). While this Court may request volunteer counsel in exceptional cases, it has no power to make a mandatory appointment. *Mallard v. U.S. Dist. Court of Iowa*, 490 U.S. 296, 301-08 (1989).

In order to determine whether exceptional circumstances exist, this court evaluates Plaintiff's likelihood of success on the merits and his ability to articulate his claim *pro se* in light of the complexity of the legal issues involved. *Wood*, 900 F.2d at 1335-36; *Wilborn*, 789 F.2d at 1331; *Richards v. Harper*, 864 F.2d 85, 87 (9th Cir. 1988) (quoting *Weygandt v. Look*, 718 F.2d 952, 954 (9th Cir. 1983)). However, "[n]either of these factors is dispositive and both must be viewed together before reaching a decision on request of counsel under [former] section 1915(d)." *Wilborn*, 789 F.2d at 1331; *Terrell v. Brewer*, 935 F.2d 1015, 1017 (9th Cir. 1991).

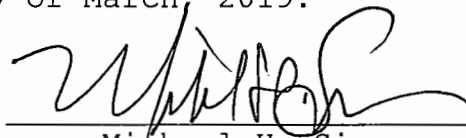
Plaintiff has demonstrated sufficient ability to articulate his claims. The facts and legal issues involved are not of substantial complexity. Accordingly, at this stage of the proceeding, there are no exceptional circumstances that require the appointment of counsel under § 1915(e).

CONCLUSION

Based on the foregoing, Plaintiff's Motion for Appointment of Counsel (#56) is DENIED.

IT IS SO ORDERED.

DATED this 18th day of March, 2019.

A handwritten signature in black ink, appearing to read 'Michael H. Simon', is written over a horizontal line.

Michael H. Simon
United States District Judge